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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,546	11/24/2003	Timothy T. Wenzel	2000U035D1.US	4578

7590 08/11/2004

Univation Technologies, LLC
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EXAMINER

HARLAN, ROBERT D

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/720,546	Applicant(s) WENZEL ET AL.	
	Examiner Robert D. Harlan	Art Unit 1713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goode et al., Publication No. WO

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98/20045 (hereinafter "Goode"). Goode discloses a method for inhibiting build-up in a polymerization system during polymerization of an olefin monomer into a polyolefin comprising the introduction into the system an antifouling agent in an amount sufficient to inhibit polymer build-up. See Goode, Abstract; page 1, lines 4-7. Goode further discloses a method for olefin polymerization comprising the introduction of a catalyst (Ziegler-Natta, metallocenes, di-imine metal complexes) and a cocatalyst into a reaction zone. See Goode, page 6, second full ¶ through page 18, second full ¶. Goode further discloses an antifouling agent that can be used in the polymerization process. See Goode, page 18, second full ¶ through page 24, first full ¶. Goode further discloses that the antifouling agent can be added as a gas, liquid or solid and antifouling agent can have at least one -OH functionality. See Goode, page 23, second full ¶.

4. Although Goode does not explicitly state that any of the selected antifouling agents change phase at a temperature above the operating temperature and reducing the effectiveness of the polymerization catalyst to polymerize olefin(s), a person of ordinary skill in the art

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reading the disclosure of Goode as a whole would render the phase change and reduction of polymerization catalyst effectiveness limitations obvious. Such assertion can be gleaned from Goode based on the fact that the olefin polymerization temperatures range from about 0° C to about 200° C and Goode teaches that the antifouling agent can be added as solid. It necessarily flows from the polymerization process for preparing polyolefins without reactor build-up or sheeting as disclosed by Goode that by adding a solid anti-fouling agents under the polymerization temperatures range from about 0° C to about 200° C the solid anti-fouling agent will change phases reducing the effectiveness of the polymerization catalyst. Therefore, claims 1-10 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goode.

5. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Agapiou et al., U.S. Patent No. 6,140,432 (hereinafter "Agapiou"). Agapiou discloses a gas or slurry polymerization process that substantially reduces reactor fouling and sheeting in a gas or slurry polymerization process. See Agapiou, Abstract; col. 2, lines 1-26. Agapiou discloses several "surface modifiers"

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that are organic compounds; the "surface modifiers" are liquids.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1-12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,369,174. Although the conflicting claims are not identical, they are not patentably distinct from each other because claimed subjected found in U.S. Patent No. 6,369,174 is a species of the broader disclosure found in the present claims.

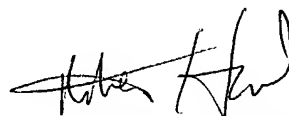
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Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert D. Harlan whose telephone number is (703) 306-5926. The examiner can normally be reached on Mon-Fri, 10 AM - 8 PM.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David W. Wu can be reached on (703) 308-2450. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-3429 for regular communications and (703) 306-3429 for After Final communications.

10. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1495.



Robert D. Harlan
Examiner
Art Unit 1713

rdh
August 6, 2004